

DISABILITY RETIREMENT

A.C.A. § 24-7-704

RULES (as amended by Acts 468 and 743 of 2009)

I. ELIGIBILITY AND REVIEW OF DISABILITY RETIREMENT APPLICATIONS

- A. Active members in employer service with five (5) years of actual and reciprocal service are eligible to apply for disability retirement. For purposes of eligibility for disability retirement, a member will be considered active for an additional fiscal year following the last fiscal year that actual service was rendered to a covered employer. However, service credit used in any benefits paid shall only include days of service paid by a covered employer including paid sick leave.
- B. To qualify for disability retirement, a member who as the result of a personal injury or disease must become totally and permanently incapacitated for the performance of his or her job duties. Members who meet this standard under A.C.A. § 24-7-704 may be retired by the Board.
- C. Disability benefits shall be confirmed upon affirmative vote of the Board after a majority recommendation by the System's Medical Committee that the member is:
 - 1. Physically or mentally incapacitated;
 - 2. Unable to perform his or her current work duties;
 - 3. Most likely permanently incapacitated.
- D. Disability retirement benefits shall commence the first day of the calendar month following the date the member is found to be disabled by the Medical Committee. Termination of active membership for disability benefits shall be the last date of employment with the member's covered employer. Paid sick leave, Family Medical Leave Act (FMLA) leave, if granted for the disability applicant, and other medical leave granted by the employer shall extend the date of active membership; however, service credit shall only include the days of service credit if it was for paid sick leave from the covered employer.
- E. For a reciprocal member, see Rule No. 6-2 (Reciprocity, No. 2, Disability).

- F. If a disability is determined to exist by the Medical Committee, disability retirement benefits shall be paid in arrears beginning with the effective date of benefits. Disability retirement shall be effective the first day of the calendar month following the member's date of termination of active membership, which is the date the member last rendered service to a covered employer.
- G. If the application for disability retirement benefits is denied and the member elects to apply for voluntary retirement, the effective date for retirement will be determined under the voluntary retirement provisions.
- H. If an active member dies after applying for disability retirement, the following will apply:
 - 1. If the member dies before receipt of the first disability retirement check but after receiving final approval for disability retirement, the benefits will be paid under the disability retirement option selected by the member.
 - 2. If the member dies after the disability application is received by the System but before disability retirement is approved, then the System shall consider the member to have died in "active" service and survivor benefits under A.C.A. § 24-7-710 shall be paid.
- I. The annuity formula for computing disability retirement benefits is the same as for voluntary age and service retirement.
- J. The Board or its designee may require a disability retirant who has not attained age 60 to undergo a medical examination to be made by or under the direction of the Medical Committee at least annually during the first five (5) years following a member's disability retirement and at least once in each three (3) year period thereafter.
 - 1. If a disability retirant refuses to submit to the medical examination, the disability annuity may be suspended by the Board until the withdrawal of his/her refusal.
 - 2. If a disability retirant's refusal to submit to the medical examination continues for one (1) year, the Board may revoke the disability benefit.
 - 3. If after a retirant's medical examination, the Medical Committee reports to the Board that the retiree is physically and mentally able and capable of resuming duties in the position held at the time of disability retirement, then the disability retirement shall terminate. Disability retirants who are disapproved for further disability annuities shall be removed from the System's retirant payroll the earlier of six months

following the review date or the first of the month following the return to covered employment.

- K. If a member is approved for disability retirement but continues to work, he/she must terminate employment by the proposed disability retirement effective date. If covered employment is not terminated after receiving notice of the proposed effective date, disability retirement will be cancelled, the member will be considered active, and is eligible to reapply for disability retirement.
- L. If a member applies for disability retirement and is disapproved, he/she has the right to file a new disability application submitting additional information for review.

II. DISABILITY RETIRANTS RETURN TO COVERED EMPLOYMENT

A. Disability Retirant Employed Prior to Attaining Age 60

- 1. When a disability retirant becomes employed by an employer covered by the System prior to attaining sixty (60) years of age, his or her disability retirement shall terminate.
- 2. It is the responsibility of the employee and employer to report a disability retirant's return to covered employment to the System immediately upon employment.
- 3. When a disability retirant under sixty (60) years of age returns to covered employment, he or she shall immediately become an active member of the System, his or her credited service at the time of disability retirement will be restored to the members' deposit account, and the member will be treated and reported as an active member for purposes of earning service credit.
- 4. The disability retirant shall not be given service credit during the time he or she received a disability retirement benefit and will not be required to repay disability benefits received prior to returning to covered employment.

B. Disability Retirant Employed After Attaining Age 60

When a disability retirant returns to a position covered by the System upon attaining sixty (60) years of age, the retirant shall be treated as if he or she had retired under A.C.A. § 24-7-701.

See ATRS Rule No. 10-2 (Employment of an ATRS Retiree by a Participating Employer) for rules applicable to age and service retirants.

Amended: June 15, 2004
July 18, 2005
June 19, 2007
December 18, 2009